

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRUSTEES OF THE SOFT DRINK)	
INDUSTRY - LOCAL UNION NO. 744)	
PENSION FUND,)	
)	
Plaintiff,)	Case No. 08 C 502
)	
v.)	Judge Leinenweber
)	
ROYAL CROWN BOTTLING COMPANY)	Magistrate Judge Nolan
OF CHICAGO, a Delaware Corporation,)	
)	
Defendant.)	
)	

ROYAL CROWN'S MOTION TO DISMISS COUNT II OF PLAINTIFF'S COMPLAINT

Defendant, ROYAL CROWN BOTTLING COMPANY OF CHICAGO, by and through its attorneys, Seyfarth Shaw LLP, moves this Court to dismiss Count II¹ of Plaintiff's Complaint with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The grounds for this motion are set forth in the accompanying memorandum of law.

WHEREFORE, Defendant Royal Crown Bottling Company of Chicago respectfully requests that this Honorable Court dismiss Count II of Plaintiff's Complaint with prejudice.

¹ Royal Crown simultaneously has filed an Answer and Affirmative Defenses in response to Count I of the Complaint.

DATED: March 24, 2008

Respectfully submitted,

ROYAL CROWN BOTTLING
COMPANY OF CHICAGO

By: /s/ Colin M. Connor
One of Its Attorneys

Joel H. Kaplan
Marc. R. Jacobs
Colin M. Connor
SEYFARTH SHAW LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
(312) 460-5000

CERTIFICATE OF SERVICE

I, Colin M. Connor, an attorney, do hereby certify that I have caused a true and correct copy of the foregoing ROYAL CROWN'S MOTION TO DISMISS COUNT II OF PLAINTIFF'S COMPLAINT to be served upon the following counsel of record on March 24, 2008 through the Court's electronic filing system:

Librado Arreola
Barry G. Collins
Asher, Gittler, Greenfield & D'Alba, Ltd.
200 W. Jackson Blvd., Suite 1900
Chicago, Illinois 60606

/s/ Colin M. Connor